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7 Legal Representatives for Complainant

8 **BEFORE THE**  
**RESPIRATORY CARE BOARD**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
10 **STATE OF CALIFORNIA**

11 In the Matter of the 1<sup>st</sup> Amended Petition to  
Revoke Probation Against:

12 LORRAINE A. EIVAZIANS  
13 3121 Otis Avenue  
14 Modesto, CA 95350

15 Respiratory Care Practitioner License No. 5464

16 Respondent.

Case No. R-1991

**FIRST AMENDED  
PETITION TO  
REVOKE PROBATION**

17  
18 Complainant alleges:

19 PARTIES

20 1. Stephanie Nunez (Complainant) brings this Petition to Revoke Probation  
21 solely in her official capacity as the Executive Officer of the Respiratory Care Board of California,  
22 Department of Consumer Affairs.

23 2. On or about June 28, 1985, the Respiratory Care Board issued Respiratory  
24 Care Practitioner License Number 5464 to Lorraine A. Eivazians formerly known as Lorraine  
25 Fowler (Respondent). The Respiratory Care Practitioner License was in effect at all times relevant  
26 to the charges brought herein and will expire on April 30, 2006, unless renewed.

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1 **DISCIPLINARY HISTORY**

2 3. On August 4, 2005, Petition to Revoke Probation Case No. R-1991 was  
3 filed against respondent based on her failure to comply with the terms of probation imposed in  
4 Case No. R-1891 which was effective August 9, 2004. Respondent's Respiratory Care  
5 Practitioner License was revoked. However, the revocation was stayed and Respondent's license  
6 was placed on probation for a period of two (2) years with certain terms and conditions. A copy  
7 of the decision in R-1891 is attached as **Exhibit A** and is incorporated by reference.

8 **JURISDICTION**

9 4. This Petition to Revoke Probation is brought before the Respiratory Care  
10 Board (Board), Department of Consumer Affairs, under the authority of the following laws. All  
11 section references are to the Business and Professions Code unless otherwise indicated.

12 5. Section 3710 of the Code states: "The Respiratory Care Board of  
13 California, hereafter referred to as the board, shall enforce and administer this chapter [Chapter 8.3,  
14 the Respiratory Care Practice Act]."

15 6. Section 3718 of the Code states: "The board shall issue, deny, suspend, and  
16 revoke licenses to practice respiratory care as provided in this chapter."

17 7. Section 3754 of the Code states: "The board may deny an application for,  
18 or issue with terms and conditions, or suspend or revoke, or impose probationary conditions upon,  
19 a license in any decision made after a hearing, as provided in Section 3753."

20 **COST RECOVERY**

21 8. Section 3753.5, subdivision (a) of the Code states:

22 "In any order issued in resolution of a disciplinary proceeding before the board, the  
23 board or the administrative law judge may direct any practitioner or applicant found to have committed  
24 a violation or violations of law to pay to the board a sum not to exceed the costs of the investigation and  
25 prosecution of the case."

26 9. Section 3753.7 of the Code states:

27 "For purposes of the Respiratory Care Practice Act, costs of prosecution shall include  
28 attorney general or other prosecuting attorney fees, expert witness fees, and other administrative, filing,

1 and service fees."

2 10. Section 3753.1 of the Code states:

3 "(a) An administrative disciplinary decision imposing terms of probation may include,  
4 among other things, a requirement that the licensee-probationer pay the monetary costs associated with  
5 monitoring the probation. "

6 FIRST CAUSE TO REVOKE PROBATION

7 (Biological Fluid Testing)

8 11. At all times after the effective date of Respondent's probation, Condition 2  
9 stated:

10 "Respondent, at her expense, shall participate in random testing, including,  
11 but not limited to, biological fluid testing...for the entire probation period. The  
12 frequency and location of testing will be determined by the Board."

13 12. Respondent's probation is subject to revocation because she failed to  
14 comply with Probation Condition 2, referenced above. The facts and circumstances regarding this  
15 violation are as follows:

16 A. Respondent was informed that the Board had contracted with  
17 Compass Vision Inc. (CVI) to perform random testing, collection and analysis of biological fluids.  
18 Respondent was informed that she was responsible to telephone an automated, toll free number on  
19 a daily basis to determine if she was required to report to a collection site for testing. The date and  
20 time of all calls made to the system are logged into CVI's database.

21 B. On or about January 31, 2005, respondent was selected to provide  
22 a specimen for testing and analysis; however, she did not do so.

23 C. On April 15, 2005, at approximately 7:06 a.m., respondent  
24 telephoned CVI and was directed to provide a specimen. Respondent failed to report for testing.

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(Quarterly Reports)

15. At all times after the effective date of Respondent's probation, Condition 5 stated:

"Respondent shall file quarterly reports of compliance under penalty of perjury ..."

16. Respondent failed to provide a quarterly report for April 1 through June 30, 2005 which was due between July 1 and July 7, 2005. She has not provided a quarterly report for July 1 through September 30, 2005 which was due between October 1 and 7, 2005.

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17. At all times after the effective date of Respondent's probation, Condition 7 stated:

"All costs incurred for probation monitoring during the entire probation shall be paid by the Respondent."

18. Respondent's probation is subject to revocation because she failed to comply with Probation Condition 7, referenced above. The facts and circumstances regarding this violation are as follows:

A. Respondent has not paid probation costs of \$100.00 per month for April through October 2005 and is currently in arrears \$600.00.

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19. At all times after the effective date of Respondent's probation, Condition 11 stated:

"Respondent shall pay to the Board a sum not to exceed the costs of the investigation and prosecution of this case. That sum shall be \$910.00 (nine hundred ten dollars) and shall be paid in full directly to the Board, in equal quarterly payments, within 12 months from the effective date of this decision..."

20. Respondent is in violation of this condition because she failed to make

1 quarterly payments of \$227.50 due on February 9, 2005, May 9, 2005 and August 9, 2005. She is  
2 currently in arrears \$682.50.

3 PRAYER

4 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
5 alleged, and that following the hearing, the Respiratory Care Board issue a decision:

6 1. Revoking the probation that was granted by the Respiratory Care Board of  
7 California in Case No. R-1891 and imposing the disciplinary order that was stayed thereby  
8 revoking Respiratory Care Practitioner License No. 5464 issued to Lorraine A. Eivazians;

9 2. Revoking or suspending Respiratory Care Practitioner License No. 5464,  
10 issued to Lorraine A. Eivazians;

11 3. Ordering Lorraine A. Eivazians to pay the Respiratory Care Board the costs  
12 of the investigation and enforcement of this case, and if probation is continued or extended, the  
13 costs of probation monitoring;

14 4. Taking such other and further action as deemed necessary and proper.  
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16 DATED: October 28, 2005  
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19 Original signed by Liane Zimmerman for:  
20 STEPHANIE NUNEZ  
21 Executive Officer  
22 Respiratory Care Board of California  
23 Department of Consumer Affairs  
24 State of California  
25 Complainant  
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**Exhibit A**

**Decision and Order**

**Respiratory Care Board of California Case No. R-1891**